

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

EDDY STREET, LLC,

Plaintiff,

vs.

NAUTILUS INSURANCE COMPANY,

Defendant.

C.A. NO.: 1:16-cv-437

**NOTICE OF REMOVAL TO THE UNITED STATES DISTRICT
COURT FOR THE DISTRICT OF RHODE ISLAND**

**TO THE UNITED STATES DISTRICT COURT,
DISTRICT OF RHODE ISLAND:**

Pursuant to 28 U.S.C. § 1446(a) and Local Rule Cv 81, the named defendant, Nautilus Insurance Company ("Nautilus"), hereby gives notice of its removal of this action from the Superior Court of Rhode Island to the United States District Court for the District of Rhode Island.

In support of this Notice, Nautilus respectfully states as follows:

1. The Plaintiff, Eddy Street, LLC, ("Eddy Street"), filed a Complaint against Nautilus in Rhode Island Superior Court captioned Eddy Street, LLC v. Nautilus Insurance Company, case number PC-2016-3281 (Providence, SC). A true and accurate copy of the Complaint is attached hereto as *Exhibit A*.

2. Eddy Street served the Summons and Complaint upon Nautilus on July 18, 2016.

3. In accordance with 28 U.S.C. § 1446(b), Nautilus is filing this Notice within thirty (30) days after its receipt of a copy of the initial pleading setting forth the claim for relief upon which the Plaintiff's action is based. Accordingly, this Notice of Removal is timely.

4. The United States District Court for the District of Rhode Island is the proper forum for removal under 28 U.S.C. § 1441(a) because this civil action is currently pending in Superior Court in Providence, Rhode Island.

5. While Eddy Street has not identified the amount in controversy within its Complaint other than to state it exceeds the sum of \$10,000, it has represented in its Complaint that it seeks to reach and apply the Nautilus policy proceeds in connection with a judgment against T.R. Lynch Construction, LLC in the amount of \$262,022.62. Accordingly, the amount in controversy exceeds \$75,000 and thus satisfies the amount in controversy requirement set forth in 28 U.S.C. § 1332(a).

6. According to the Complaint, Eddy Street is a citizen of Rhode Island. Nautilus Insurance Company is an insurance company incorporated in the State of Arizona with its principal place of business in Scottsdale, Arizona. Accordingly, there is complete diversity of citizenship between the Plaintiff and the Defendant under 28 U.S.C. § 1332(a).

7. Although Eddy Street alleges that Nautilus is a citizen of Rhode Island pursuant to 28 U.S.C. § 1332(c) based on the domicile of the named insured, the nature of this case is such that it is not a direct action because 28 U.S.C. § 1332(c) refers only to cases brought by alleged victim of tort under “direct action” statute against liability insurer of alleged tortfeasor, which is not the case here. *See White v. U. S. Fidelity & Guaranty Co.*, 356 F.2d 746 (1st Cir. 1966).

8. As the amount in controversy exceeds the sum of \$75,000 and complete diversity of citizenship exists between the Plaintiff and the Defendant, removal is proper pursuant to 28 U.S.C. § 1446.

9. Pursuant to 28 U.S.C. § 1446(d) and Local Rule Cv 81(a), Nautilus will give a copy of this Notice, together with a copy of a Notice of Filing Removal, to Eddy Street promptly after it has filed this Notice with this Court.

10. Pursuant to 28 U.S.C. § 1446(d) and Local Rule Cv 81(a), Nautilus will also file a copy of this Notice with the Clerk of the Providence Superior Court promptly after it has filed this Notice with this Court.

11. Pursuant to Local Rule Cv 81(b), Nautilus will file or cause to be filed certified or attested copies of the docket sheet(s) and documents filed in this case, arranged in the same order as they appear on the docket sheet and numerically tabbed, with this Court within 14 days after filing this Notice.

WHEREFORE, the named Defendant, Nautilus Insurance Company, respectfully requests that this Court remove this case to the United States District Court for the District of Rhode Island, together with such other relief as the Court deems just and proper.

Respectfully Submitted,
NAUTILUS INSURANCE COMPANY,

By its Attorneys,

MORRISON MAHONEY LLP

/s/ Clark W. Yudysky

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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the EFC System will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants as listed below this 5th day of August, 2016.

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/s/ Clark W. Yudysky
